

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

HEATHER NELSON,

Plaintiff,

v.

Case No.: 11-cv-307

SANTANDER CONSUMER USA, INC.,
PATRICK K. WILLIS CO., INC.,
d/b/a AMERICAN RECOVERY SERVICE,
ASSETSBIZ CORP. d/b/a ABC RECOVERY,

Honorable Barbara B. Crabb

Defendants.

**DEFENDANTS' MOTION IN LIMINE NUMBER 2:
TO EXCLUDE ANY REFERENCE TO OUT-OF-STATE COUNSEL
OR THE SIZE OF THE LAW FIRMS INVOLVED IN THIS MATTER**

Defendant Santander Consumer USA, Inc., Patrick K. Willis Co., Inc., d/b/a American Recovery Service, and AssetsBiz Corp. d/b/a ABC Recovery ("Defendants"), by their attorneys, respectfully requests this Court enter an order *in limine* to exclude at trial any and all references to (i) that Defendants' attorneys do not reside in Wisconsin or (ii) the size or international nature of the law firms or the number of firms or attorneys Defendants hired to defend themselves in this case.

Specifically, that information should be excluded under Federal Rules of Evidence 401 and 403 because it is irrelevant and prejudicial. First, the information about Defendants' attorneys and their law firm is irrelevant to the issues at trial regarding Defendants' actions relating to Ms. Nelson's automobile loans. Second, even if it were the least bit relevant, the only reason to make the jury aware of such facts would be to create a false "David versus Goliath" perception in the minds of the jurors and to wrongly suggest that Santander hired a "Goliath" legal team to defend itself from Ms. Nelson's claims because it is liable. *See Cent. Die*

Casting and Mfg. Co. v. Tokheim Corp., Case No. 93 C 7692, 1998 WL 812558, at *10 (N.D. Ill. Nov. 19, 1998) (granting defendant's motion *in limine* to exclude, *inter alia*, any mention as to the size of the law firm representing defendant); *see also Whittenburg v. Werner Enters. Inc.*, 561 F.3d 1122, 1130 (10th Cir. 2009) (attempts to allude to defendant's financial resources or otherwise debase and degrade the veracity of a litigant or its counsel instead of focusing on the merits of the case are improper).

WHEREFORE, defendant Santander Consumer USA, Inc., Patrick K. Willis Co., Inc. d/b/a American Recovery Service and AssetsBiz Corp., d/b/a ABC Recovery respectfully request that this Court enter an order precluding plaintiff Heather Nelson, her counsel, and all witnesses from disclosing or otherwise mentioning in the presence of the jury any and all references to (i) the fact that none of Defendants' lawyers reside in Wisconsin; (ii) the size or nature of the law firms Defendants have retained in this matter; and/or (iii) the number of attorneys Defendants have retained in this matter.

Dated: May 10, 2013

SANTANDER CONSUMER USA, INC.,
PATRICK K. WILLIS CO., INC., d/b/a
AMERICAN RECOVERY SERVICE
AND ASSETSBIZ CORP., d/b/a/ ABC
RECOVERY
Defendants

s/ David Z. Smith

David. Z. Smith

Gary S. Caplan

Robert O'Meara

Reed Smith LLP

10 South Wacker Drive

Chicago, IL 60606

312.207.1000

dzsmith@reedsmith.com

CERTIFICATE OF SERVICE

I, David Z. Smith, hereby state that on May 10, 2013, I electronically filed the foregoing **DEFENDANTS' MOTION IN LIMINE NUMBER 2** with the Clerk of the U.S. District Court for the Western District of Wisconsin using the ECF system, which will send notification to all parties of record.

By: /s/ David Z. Smith
David Z. Smith (IL ARDC No. 6256687)
REED SMITH LLP
10 South Wacker Drive
Chicago, Illinois 60606
(312) 207-1000